

66307-291-7

BEST AVAILABLE COPY EFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) PATENT
Anthony Fred MERCURIO et al.) GROUP: 1712
Serial No.: 10/702,041) EXAMINER: METZMAIER, Daniel S.
Filed: November 6, 2003) CUSTOMER NO. 25269
AEROSOL DELIVERY SYSTEM) CONFIRMATION NO. 7411

* * * * *

DECLARATION UNDER 37 CFR §1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

We, Anthony Fred Mercurio and Derek Alfred Wheeler, hereby declare and state as follows:

1. We are the named co-inventors of the invention described and claimed in the above-identified U.S. patent application.
2. We have received and reviewed the Office Action of December 14, 2005 and have noted that examiner's rejection of claims 1-11 based on U.S. Patent No. 6,881,757 to Moodycliffe et al.
3. With respect to the examiner's rejection of claim 9, which is directed to the inventive aerosol composition as a polish, an air freshener, a repellent, a pre- or post-shave preparation, a shaving preparation, or a follicle softener, we assert that we invented this subject matter prior to

November 8, 2002, which is the effective date of the Moodycliffe et al. patent.

4. With respect to our statement in the foregoing paragraph, we attach copies of pages from our laboratory notebook kept in the normal course of our employment which shows that we created a biliquid foam polish formulation as early as September 14, 2001 (see documents 100-53, 100-55, 100-86, 100-87, 100-88, 100-89), an insect repellent formulation as early as March 21, 2002 (see documents 100-178, 100-224), a biliquid foam after-shave formulation as early as December 13, 2001 (see document 100-109), a biliquid foam shave formulation as early as September 8, 2002 (see documents 100-179, 100-225), a biliquid foam shave or furniture polish formulation as early as December 12, 2001 (see document 100-110), and a biliquid foam air freshener formulation as early as March 21, 2002 (see documents 100-179, 100-225).

We furthermore declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section

1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Anthony F. Mercurio
Anthony Fred Mercurio

6/19/06
Date

Derek Alfred Wheeler
Derek Alfred Wheeler

16/06/06
Date

Extra Page Brought To You By Shutter

Project Promise 100-53-1

| | | | amount of product--> | | 40% <--in grams | |
|-------------------|-------------|--------|----------------------|-------|-----------------|-------|
| Bi-Liquid Foam | | | \$ | g | | |
| Mineral oil | SC Johnson | 49.10 | 19.64 | 7.855 | | |
| 200 fluid 100cts | Dow Corning | 20.00 | 8.00 | 3.2 | | |
| 200 fluid 1000cts | Creda | 20.00 | 8.00 | 3.2 | | |
| Laureth 4 | House | 0.90 | 0.38 | 0.144 | | |
| 1%SLES in H2O | House | 10.00 | 4.00 | 1.6 | 0.016 | 1.584 |
| | | 100.00 | 40.00 | 16 | | |

| Working | Amount--> | 100.00 |
|----------------|-----------|--------|
| 1% Carbomer | 8.00 | 8.00 |
| bi-liquid foam | 40.00 | 40.00 |
| phenonip | 0.05 | 0.05 |
| naOH | 0.53 | 0.53 |
| Water | 51.42 | 51.42 |
| | 100.00 | 100.00 |

| Ingredient | % w/w |
|----------------|--------|
| Water | 63.25 |
| Carbomer | 0.08 |
| Mineral oil | 19.84 |
| PDMS 100 cts. | 8.00 |
| PGMS 1000 cts. | 8.00 |
| Laureth-4 | 0.36 |
| SLES | 0.04 |
| preservative | 0.05 |
| TEA | 0.53 |
| Fragrance | 0.05 |
| Total | 100.00 |

Project Promise 100-53-2

| | | | amount of product--> | | 40% <--in grams | |
|---------------------------|-------------|--------|----------------------|-------|-----------------|-------|
| Bi-Liquid Foam | | | \$ | g | | |
| Mineral oil | SC Johnson | 49.10 | 19.64 | 7.855 | | |
| 200 fluid 100cts | Dow Corning | 20.00 | 8.00 | 3.2 | | |
| 200 fluid 1000cts | Creda | 20.00 | 8.00 | 3.2 | | |
| Alkoxylated Fatty Alcohol | House | 0.90 | 0.38 | 0.144 | | |
| 1%SLES in H2O | House | 10.00 | 4.00 | 1.6 | 0.016 | 1.584 |
| | | 100.00 | 40.00 | 16 | | |

| Working | Amount--> | 100.00 |
|----------------|-----------|--------|
| 1% Carbomer | 8.00 | 8.00 |
| bi-liquid foam | 40.00 | 40.00 |
| phenonip | 0.05 | 0.05 |
| naOH | 0.53 | 0.53 |
| Water | 51.42 | 51.42 |
| | 100.00 | 100.00 |

| Ingredient | % w/w |
|---------------------------|--------|
| Water | 63.25 |
| Carbomer | 0.08 |
| Mineral oil | 19.84 |
| PDMS 100 cts. | 8.00 |
| PGMS 1000 cts. | 8.00 |
| Laureth-4 | 0.36 |
| Alkoxylated Fatty Alcohol | 0.04 |
| preservative | 0.05 |
| TEA | 0.53 |
| Fragrance | 0.05 |
| Total | 100.00 |

BOTTLED WORKER PAY \$ 90

P 1 SERVED TO WORKER PAY \$ 10

9/14/2001

Chlorophyll a) 350 nm (nm)

| 81-Liquid Foam | | Amount in Formula | % of FA | 500 |
|---------------------------------|------------|-------------------|---------|--------|
| Mineral oil | Klearol | 80.00 | 84.85 | 424.29 |
| 200 fluid 100cts | Dow Coming | 2.00 | 2.12 | 10.61 |
| 200 fluid 1000cts | Dow Coming | 2.00 | 2.12 | 10.61 |
| Laureth-4 | House | 0.85 | 0.90 | 4.50 |
| 1%Alkoxylated Fatty Alcohol(aq) | House | 9.43 | 10.00 | 50.00 |
| | | 94.28 | 100.00 | 500.00 |

% in formula \rightarrow

| Standard Formula | g |
|--|---------------|
| Water | 14.93 |
| Carbowax | 0.08 |
| Mineral oil | 80.00 |
| DC-200 fluid 100cts | 2.00 |
| DC-200 fluid 1000cts | 2.00 |
| Laureth-4 | 0.85 |
| Ethoxylated/Propoxylated fatty Alcohol | 0.09 |
| Phenonip | 0.05 |
| Total | 100.00 |

| | | |
|---------------------|--------|--------|
| Manufacturing | | 500 |
| Water | 1.67 | 8.35 |
| 2% Carbopol 980/TEA | 4.00 | 20.00 |
| Bi-Liquid Foam | 94.28 | 471.40 |
| Rhenonip | 0.65 | 0.25 |
| | 100.00 | 500.00 |

* ~~the~~ ~~new~~ ~~files~~ ~~are~~ ~~not~~ ~~the~~ ~~same~~ ~~as~~ ~~the~~ ~~old~~ ~~files~~
there ~~is~~ ~~no~~ ~~change~~ ~~in~~ ~~the~~ ~~amount~~ ~~of~~ ~~charter~~ ~~expenses~~ ~~either~~
- ~~the~~ ~~new~~ ~~files~~ ~~are~~ ~~not~~ ~~the~~ ~~same~~ ~~as~~ ~~the~~ ~~old~~ ~~files~~
there ~~is~~ ~~no~~ ~~change~~ ~~in~~ ~~the~~ ~~amount~~ ~~of~~ ~~charter~~ ~~expenses~~ ~~either~~

Sept. 27, 1904

卷之三

Project Promise 100-86

| | | Amount in Formula | % in Foam | amount of product--> | 120.000 <--in grams |
|-----------------|------------|-------------------|-----------|----------------------|---------------------|
| | | | % | g | |
| Bi-Liquid Foam | | | | | |
| Mineral oil | SC Johnson | 10.000 | 52.41 | 62.89 | |
| SCJohnson 29cTs | SCJ | 7.000 | 36.69 | 44.03 | |
| Laureth 4 | House | 0.172 | 0.90 | 1.08 | |
| 1% SLES(eq) | House | 1.908 | 10.00 | 12.00 | |
| | | 19.080 | 100.00 | 120.00 | |

19.079685

| Working | Amount--> | 500.000 |
|-----------------|-----------|---------|
| 1% Carbomer/TEA | 8.000 | 40.000 |
| Bi-Liquid foam | 19.080 | 95.398 |
| phenonip | 0.050 | 0.250 |
| DC AF | 1.000 | 5.000 |
| Water | 71.870 | 359.352 |
| | 100.000 | 500.000 |

| Ingredient | %w/w |
|--------------|---------|
| Water | 81.949 |
| Carbomer | 0.080 |
| Mineral oil | 10.000 |
| PDMS 20 cts. | 7.000 |
| Laureth-4 | 0.172 |
| SLES | 0.019 |
| preservative | 0.050 |
| TEA | 0.530 |
| DC AF | 0.200 |
| Total | 100.000 |

directive

for

R&D of Insecticide
Market Test30%
v/v

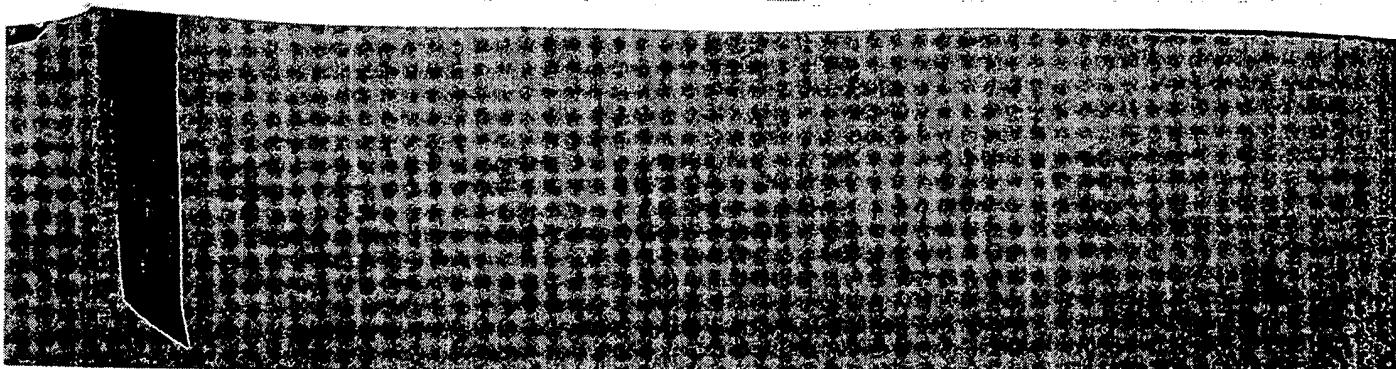
Project Promise 100-87

| | | Amount in Formula | % in Form | amount of product--> | 220.000 <--in grams |
|-----------------|------------|-------------------|-----------|----------------------|---------------------|
| Bi-Liquid Foam | | | % | g | |
| Mineral oil | SC Johnson | 30.000 | 72.24 | 158.94 | |
| SCJohnson 20cts | SCJ | 7.000 | 16.86 | 37.08 | |
| Laureth 4 | House | 0.374 | 0.80 | 1.98 | |
| 1% SLES(aq) | House | 4.153 | 10.00 | 22.00 | |
| | | 41.526 | 100.00 | 220.00 | |

41.52637486

| Working | Amount--> | 500.000 |
|-----------------|-----------|---------|
| 1% Carbomer/TEA | 8.000 | 40.000 |
| Bi-Liquid foam | 41.526 | 207.632 |
| phenonip | 0.050 | 0.250 |
| DC AF | 1.000 | 5.000 |
| Water | 49.424 | 247.118 |
| | 100.000 | 500.000 |

| Ingredient | %v/v |
|--------------|---------|
| Water | 61.725 |
| Carbomer | 0.080 |
| Mineral oil | 30.000 |
| PDMS 20 cts. | 7.000 |
| Laureth-4 | 0.374 |
| SLES | 0.042 |
| preservative | 0.050 |
| TEA | 0.530 |
| DC AF | 0.200 |
| Total | 100.000 |



CONFIDENTIAL

RELEASE UNDER E.O.
14176

4/26/88

TEST 7/17

Project Promise 100-88

| | | Amount in Formula | % in Foam | amount of product--> | 280.000 <--in grams |
|----------------------------|------------|-------------------|-----------|----------------------|---------------------|
| SI-Liquid Foam | | | % | g | |
| Mineral oil-Klearol(Witco) | SC Johnson | 40.000 | 75.83 | 212.32 | |
| SC Johnson 20cTs | SCJ | 7.000 | 13.27 | 37.16 | |
| Laureth 4 | House | 0.475 | 0.90 | 2.52 | |
| 1% SLES(aq) | House | 5.275 | 10.00 | 28.00 | |
| | | 52.750 | 100.00 | 280.00 | |

52.74971942 <--Calculation

| Working | Amount--> | 500.000 |
|-----------------|-----------|---------|
| 1% Carbomer/TEA | 3.000 | 40.000 |
| SI-Liquid foam | 52.750 | 263.749 |
| phenonip | 0.050 | 0.250 |
| DC AF | 1.000 | 5.000 |
| Water | 38.200 | 191.002 |
| | 100.000 | 500.000 |

| Ingredient | %w/w |
|--------------|---------|
| Water | 51.612 |
| Carbomer | 0.080 |
| Mineral oil | 40.000 |
| PDMS 20 cts. | 7.000 |
| Laureth-4 | 0.475 |
| SLES | 0.053 |
| preservative | 0.050 |
| TEA | 0.530 |
| DC AF | 0.200 |
| Total | 100.000 |

DATCO

Expense

OBJECTIVE: INCREASE MINERAL OIL
2000 ml 1000 ml

REF ID: PL

Test fit

Project Promise

100-89

| | | Amount in Formula | % in Form | amount of product -> | 330.000 <-in grams |
|----------------------------|------------|-------------------|-----------|----------------------|--------------------|
| | | | % | g | |
| Bi-Liquid Foam | SC Johnson | 50.000 | 78.16 | 257.92 | |
| Mineral oil-Klearol(Wilco) | SC Johnson | 7.000 | 10.94 | 36.11 | |
| SCJohnson 20cTs | SCJ | | | | |
| Laureth 4 | House | 0.576 | 0.90 | 2.97 | |
| 1% SLES(aq) | House | 6.397 | 10.00 | 33.00 | |
| | | 63.973 | 100.00 | 330.00 | |

63.97300397 <-Calculation

Working

Amount -> 500.000

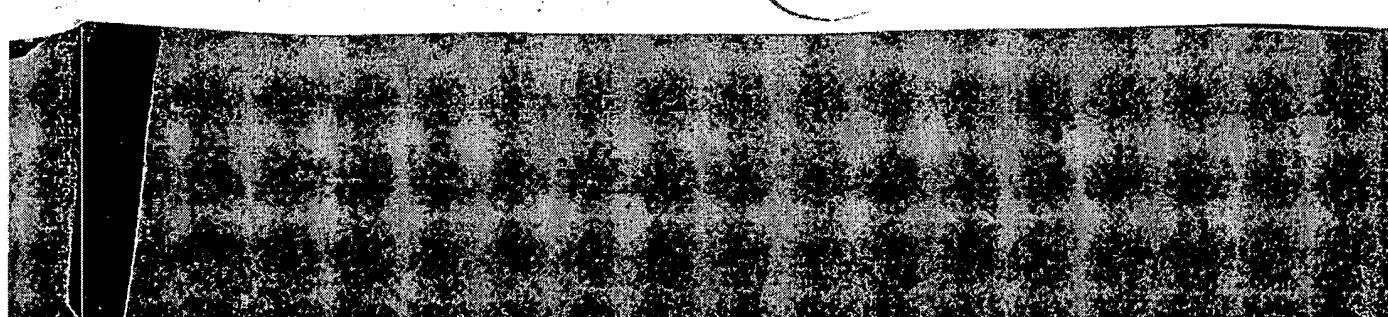
| | | |
|-----------------|---------|---------|
| 1% Carbomer/TEA | 8.000 | 40.000 |
| Bi-Liquid foam | 63.973 | 319.865 |
| phenonip | 0.050 | 0.250 |
| DC AF | 1.000 | 5.000 |
| Water | 26.977 | 134.865 |
| | 100.000 | 500.000 |

| Ingredient | %w/w |
|--------------|---------|
| Water | 41.500 |
| Carbomer | 0.080 |
| Mineral oil | 50.000 |
| PDMS 20 cts. | 7.000 |
| Laureth-4 | 0.576 |
| SLES | 0.064 |
| preservative | 0.050 |
| TEA | 0.530 |
| DC AF | 0.200 |
| Total | 100.000 |

200 ml

200 ml

100 ml



128

CREAM

6% DEET Insect Repellent

DK
3/21/02

Spray DEET
100-173

| | Formula Amount | % In Foam | Amount-> | 100 |
|--------------------|----------------|-----------|----------|-----|
| DEET | 8.000 | 33.41 | 63.48 | |
| Triphenylmethicone | 6.000 | 27.84 | 52.90 | |
| Octyl Stearate | 5.000 | 27.84 | 52.90 | |
| PEG-30 Castor Oil | 0.162 | 0.90 | 1.71 | |
| 1%SLES(aq) | 1.796 | 10.00 | 19.00 | |
| | 17.957 | 100.00 | 190.00 | |

17.95735129

| | | |
|---------------------|--------|---------|
| Standard Formula | % | 1000.00 |
| Water | 76.443 | 764.43 |
| 1% Ultraz | 5.000 | 50.00 |
| Titanium Dioxide | 0.600 | 5.00 |
| PA | 17.957 | 179.57 |
| liquid Germall Plus | 0.100 | 1.00 |
| Total | | 1000.00 |

DK 3/21 02

2/7

General

C. W. M.

Lotion

100-224
DEET Creamy Lotion

| Formula | Amount | % in Formula | % in Form | Amount(g) |
|---------------------|-------------|--------------|-----------|-----------|
| Isopropyl Mristate | Protamine | 5.00 | 18.58 | 27.84 |
| DEET | SCJ | 10.00 | 37.10 | 55.80 |
| Diisopropyl Adipate | ISP | 4.00 | 14.85 | 22.28 |
| DC 245 | Dow Corning | 5.00 | 18.58 | 27.84 |
| PEG 35 Castor Oil | Croda | 0.24 | 0.90 | 1.39 |
| SLES | Cognis | 2.89 | 10.00 | 15.00 |
| | | 26.94 | 100.00 | 150.00 |
| | | 0.24 | | |
| 26.936 | | | | |
| Manufacturing | | % | Amount--> | |
| Water | | 70.06 | 350.320 | 500.00 |
| Crothix Liquid | Croda | 1.00 | 5.000 | |
| Sepigel | Sepic | 1.50 | 7.500 | |
| Liquid Germall Plus | ISP | 0.50 | 2.500 | |
| IS-Liquid Foam | | 26.94 | 134.980 | |
| | | 100.00 | 500.000 | |

D. B. M.
Harold Mabie9/9
9/922
02

OBJECTIVE: RO SCT - ALCOHOL AFTER SHAVE
 Get w/ Slight
 fragrance.

100-109

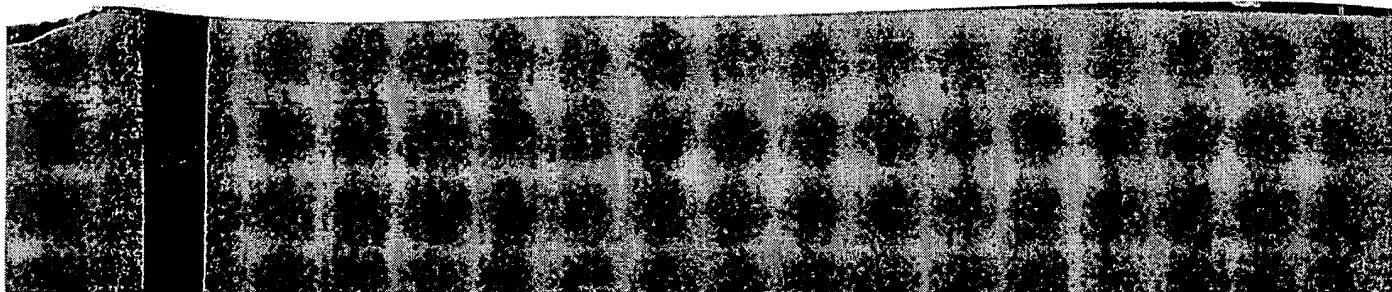
Alcohol After Shave Lotion(SCJ)

| | Formula Amount | % in Foam | Amount-> | 120 |
|--------------------------------|----------------|-----------|----------|-----|
| Caprylic/Capric Triglyceride | 3.000 | 21.38 | 25.66 | |
| Diisopropyl Adipate | 4.000 | 28.51 | 34.21 | |
| Gransil BBW-5 | 2.000 | 14.26 | 17.11 | |
| DC200-5cTs | 2.000 | 14.26 | 17.11 | |
| Fragrance(red Raspberry) | 1.500 | 10.69 | 12.83 | |
| Peg 25 Hydrogenated Castor Oil | 0.063 | 0.45 | 0.54 | |
| Peg 30 Castor Oil | 0.063 | 0.45 | 0.54 | |
| Water | 1.403 | 10.00 | 12.00 | |
| | 14.029 | 100.00 | 120.00 | |
| 14.0291807 | 0.126 | | | |
| | | Amount-> | | 500 |
| Water | 37.221 | 186.10 | | |
| 2% Ultrez/TEA | 16.000 | 80.00 | | |
| Denatured Alcohol | 20.000 | 100.00 | | |
| Glycerin | 2.000 | 10.00 | | |
| Allantoin | 0.250 | 1.25 | | |
| 2% Xanthan Gum | 10.000 | 50.00 | | |
| Hydrolyzed Oat Protein | 0.500 | 2.50 | | |
| PA | 14.029 | 70.15 | | |
| | 100.000 | 500.00 | | |

pH 6.2 62% foam 5.81

6.17

12/13 01



21

01/01/82

Shave Product Prototype

100-211

100-211
Shave Product Prototype

| Formula | Amount | % in Formula | % in Foam | Amount--> | 100.00 |
|---------------|--------|--------------|-----------|-----------|--------|
| Isopentane | | 10.000 | 88.100 | 88.10 | |
| Octa-2 | | 0.101 | 0.900 | 0.90 | |
| 1% SLES/Water | | 1.122 | 10.000 | 10.00 | |
| | | 11.223 | 100.000 | 100.00 | |
| | | 0.101 | | | |

| Manufacturing | | 500.00 |
|-------------------------------|---------|---------|
| Water | 36.477 | 182.383 |
| Carbopol Aqua SF-1/TEA | 7.000 | 35.000 |
| Dissodium Lauryl Sulfoacetate | 24.500 | 122.500 |
| Ammonium Cocoyl Isothionate | 2.500 | 12.500 |
| Glycine | 4.800 | 24.000 |
| Cocoamidopropyl Betaine | 5.700 | 28.500 |
| Ammonium Lauryl Sulphate | 8.100 | 40.500 |
| SH-Liquid Foam | 11.223 | 56.117 |
| Liquid Germall Plus | 0.500 | 2.500 |
| | 100.000 | 500.000 |

David Daniels

efi
S/A

22
02

110

1885 5

2000' A July 2000

2018-02-07 10:54:55

100/110

| Standard Formula | % |
|------------------------|--------|
| Water | 9.90 |
| Isododecane | 69.10 |
| BYK-LP X 20191 Silicon | 20.00 |
| Laureth-4 | 0.90 |
| SLES | 0.10 |
| Total | 100.00 |

1886-1887

1878

Objectives of Formulation 100-245
7/17/02, R. H. 2:53

100-245

Objective is to get Fragrance into water phase and have an ingredient prevent the migration of fragrance to the Isopentane

Bi-Liquid Foam Reference 100-225(9/9/2002)

| Ingredient | Trade Name | Supplier | % in Formula | % in Foam | Amount(g) |
|-------------------|----------------|----------|--------------|-----------|-----------|
| Fragrance | Fragrance | SCJ | 0.3000 | 89.100 | 133.650 |
| PEG 35 Castor Oil | Etocas 35 | Croda | 0.0030 | 0.900 | 1.350 |
| 1%SLES(Aq) | Standopol-ES 2 | Cognis | 0.0337 | 10.000 | 15.000 |
| | | | 0.3367 | 100.000 | 150.000 |
| | | | 0.0030 | | |
| | | | 0.337 | | |

Manufacturing

| Ingredient | Trade Name | Supplier | Formula % | Amount-> | |
|-------------------|----------------|--------------|-----------|----------|--|
| Water | Water | House | 89.6633 | 53.798 | |
| Bi-Liquid Foam | Bi-Liquid Foam | House | 0.3367 | 0.202 | |
| Polyquaternium-11 | Gafquat 755N | ISP | 5.0000 | 3.000 | |
| Isopentane | Isopentane | Triple Crown | 5.0000 | 3.000 | |
| | | | 100.0000 | 60.000 | |

Procedure for Bi-Liquid Foam is standard as pertains to patent.

Procedure. Mix water Quat-11/add Bi-Liquid Foam mix/add Isopentane mix.

→ (1) Add Bi-Liquid Foam containing Fragrance
into water and add Isopentane helping to
get a homogeneous solution.

Mix w/ mixer

Shanti Mabey

9/9
10/24/02

OBJECTIVE:

SCJ Room Freshener

WATER w/o Propellant:

Confidential

5/13/2002 9:46 AM

100-179
SCJ Room Freshener

| | Formula Amount | % in Foam | Amount | 10 |
|---------------------|----------------|-----------|--------|----|
| SCJ Fragrance | 0.300 | 89.10 | 8.91 | |
| Laureth-4 | 0.003 | 0.90 | 0.09 | |
| 1%SLES(Aq) | 0.034 | 10.00 | 1.00 | |
| | 0.337 | 100.00 | 10.00 | |
| 0.336700337 | 0.003 | | | |
| | | Amount > | 1000 | |
| Water | 70.493 | 704.93 | | |
| 2% Carbomer 930/TEA | 2.670 | 26.70 | 26.70 | |
| Propellant | 26.500 | 265.00 | 0.34 | |
| PA | 0.337 | 3.37 | 26.50 | |
| | 100.000 | 1000.00 | 100.00 | |

| Standard Formula | % |
|------------------|-----------|
| Water | 70.14218 |
| Carbomer | 0.05340 |
| TEA | 0.001100 |
| Fragrance | 0.30000 |
| Laureth-4 | 0.00300 |
| SLES | 0.00034 |
| Propellant | 26.50000 |
| Total | 100.00000 |

5/21/02
cc

726

100-225

8.4% Room Freshener

100-225
Fragrance-Room Freshener

Formula Amount

| | | % in Formula | % in Poem | Amount(g) |
|-------------------|--------|--------------|-----------|-----------|
| Fragrance | IFF | 10.00 | 89.10 | 160.00 |
| PEG 35 Castor Oil | Croda | 0.10 | 0.80 | 1.35 |
| SLES | Cognis | 1.12 | 10.00 | 15.00 |
| | | 11.22 | 100.00 | 160.00 |
| | | 0.10 | | |

David P. Webster

9/14 09
02

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- BLACK BORDERS**
- IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- FADED TEXT OR DRAWING**
- BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- SKEWED/SLANTED IMAGES**
- COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- GRAY SCALE DOCUMENTS**
- LINES OR MARKS ON ORIGINAL DOCUMENT**
- REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.